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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/634,195	08/09/2000	Donna Jean Crowther	2000U012.US	4140

7590 05/31/2002

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EXAMINER

PASTERCZYK, JAMES W

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 05/31/2002

12

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-12

Office Action Summary

Application No.

09/634,195

Applicant(s)

Crowther

Examiner

J. Pasterczyk

Art Unit

1755



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 12, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above, claim(s) 28-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 9 6) ☐ Other:

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1. This Office action is in response to the amendment filed 3/12/02 and refers to the first Office action mailed 11/7/01.

2. The abstract of the disclosure is objected to because it refers to groups of the periodic table that the metal may not be, plus it lacks that one other ligand must be a cyclopentadienyl group as now required by claim 1 and another ligand must be an amido or imido ligand as now required by claim 1. Correction is required. See MPEP § 608.01(b).

3. Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 (marked up version), last page, the meaning of R' is undefined; in l. 4 change "is form" to --forms-- and insert --with another R-- after "ring system"; in l. 5 change "is form" to --forms--; in the last two lines, delete all after ", and m and n" inclusive since there are no m or n variables earlier in the claim; in l. 4 and 5 from the end, it is implied that cyclopentadienyl derivatives, i.e. fluorenyl and indenyl, are made from cyclopentadienyl compounds, when normally they are obtained from e.g. commercial sources as distilled from petroleum fractions, or via cracking of their dimers, hence it is suggested that "cyclopentadienyl-derived ligand" be changed to --cyclopentadienyl group-containing ligand--; in l. 8 change the first "and" to --a-- and the second "and" to --or--. This section of the claim also implies that one of the X ligands must be a cyclopentadienyl group-containing ligand, and another must be an amido or imido ligand, which leaves it unclear what X really is when there are only two such ligands in the molecule.

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In claims 2-4, l. 2 of each, change "may be" to --is--.

Claims 12-14 are inconsistent with claim 1 in that they recite use of a group 10 metal in the cyclopropenyl compound.

Claims 25-27 are inconsistent with claim 1 in that they recite use of a group 3 metal in the cyclopropenyl compound. This metal group is also capable of up to 3+ valence only, violating the requirements of the compounds of claim 1 as drawn.

4. Claims 1-27 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is widely known that cyclopropenyl ligands are highly strained and would be likely to have a metal insert into one of the C-C bonds thereof, forming a metallocyclobutadiene group. There does not appear to be any clear physical evidence that the cyclopropenyl rings of the present claims exist as such in the neutral transition metal compounds. Such data may be e.g. proton or ^{13}C NMR data showing that all three positions on the rings are equivalent on the NMR time scale, indicating that the ring is spinning rapidly about the M-cyclopropenyl centroid, or IR data showing vibrations associated with cyclopropenyl rings compared to M-C vibrational modes. No such data is apparent in the specification.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is 703-308-3497. The examiner can normally be reached on M-F from 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703) 308-3823. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310 for normal faxes, 872-9311 for after final faxes.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


J. Pasterczyk

5/30/02


Mark L. Bell
Supervisory Patent Examiner
Technology Center 1700